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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE CENTRAL DISTRICT OF CALIFORNIA

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11 L.C., et al.,

12 Plaintiffs,

13 v.

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15 STATE OF CALIFORNIA, et al.,

16 Defendants.

17 No. 5:22-cv-00949 KK-SHKx

18 [Proposed] ORDER GRANTING  
19 STATE DEFENDANTS' MOTION  
20 FOR SUMMARY JUDGMENT,  
21 AND

22 JUDGMENT IN A CIVIL ACTION

23 The Court, having considered the motion for summary judgment filed by  
24 Defendants State of California, by and through the California Highway Patrol  
25 (CHP), Michael Blackwood, Isaiah Kee, and Bernardo Rubalcava (collectively  
26 State Defendants), and all the papers and argument in support and in opposition  
27 thereof, and all the pleadings and other evidence, FINDS as follows:

28 CHP Officers Blackwood, Kee, and Rubalcava are entitled to summary  
judgment on Plaintiffs' 42 U.S.C. § 1983 claim for excessive force under the Fourth  
Amendment and for battery and negligence under California law, because the  
undisputed facts demonstrate that their use of lethal force against decedent Hector  
Puga was reasonable under the totality of the circumstances. Because Plaintiffs'

1 claim under the Bane Act is premised on Defendants' violation of Plaintiffs' rights  
2 under the Fourth Amendment for excessive force, the Bane Act also fails.

3 CHP Officers Blackwood, Kee, and Rubalcava are entitled to summary  
4 judgment on Plaintiffs' 42 U.S.C. § 1983 claim under the Fourteenth Amendment  
5 for deprivation of the familial relationship because Plaintiffs have no evidence to  
6 show or raise a genuine issue of material fact that Defendants acted with a purpose  
7 to harm Puga unrelated to a legitimate law enforcement objective.

8 CHP Officer Rubalcava is entitled to summary judgment on Plaintiffs'  
9 wrongful death claim because the undisputed evidence shows that the ammunition  
10 Rubalcava used did not cause Puga's death.

11 CHP Officers Blackwood, Kee, and Rubalcava are entitled to qualified  
12 immunity because a reasonable officer in their position would have believed his use  
13 of lethal force was lawful based on the circumstances Defendants encountered with  
14 Puga.

15 CHP Officers Blackwood, Kee, and Rubalcava are immune from Plaintiffs'  
16 state-law claims under Penal Code sections 820.2 and 835a(c)(1)(A).

17 Defendant State of California is entitled to judgment in its favor as to  
18 Plaintiffs' state-law claims because its employees, CHP Officers Blackwood, Kee,  
19 and Rubalcava, are not liable or are immune. Cal. Gov. Code § 815.2

20 Accordingly, the Court ORDERS and ADJUDGES as follows:

21 1. The State Defendants' motion for summary judgment as to Plaintiffs' Third  
22 Amended Complaint is GRANTED.

23 2. The Clerk shall enter judgment in favor of Defendants State of California,  
24 Blackwood, Kee, and Rubalcava on all of Plaintiffs' remaining claims in this  
25 action.

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1                   3. Plaintiffs shall recover nothing from the State Defendants.  
2                   IT IS SO ORDERED.  
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5                   Dated: \_\_\_\_\_  
6                   Hon. Kenly Kiya Kato  
7                   United State District Court Judge  
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